

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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CAPITOL RECORDS, LLC, *et al.* )  
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  )  
                                       *Plaintiffs,*      )      No. 07 Civ. 9931 (WHP)(FM)  
  )  
  )  
                                       *v.*                                  )  
  )  
MP3TUNES, LLC, and MICHAEL ROBERTSON, )      **NOTICE OF MOTION**  
  )  
  )  
                                       *Defendants.*      )  
  )  
  )  
MP3TUNES, LLC, and MICHAEL ROBERTSON, )  
  )  
                                       *Counter-Claimants,* )  
  )  
  )  
                                       *v.*    )  
  )  
CAPITOL RECORDS, LLC, *et al.*      )  
  )  
                                       *Counter-Defendants.* )  
  )  

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PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the undersigned attorneys for Plaintiffs shall move this Court, before the Honorable William H. Pauley, United States District Judge for the Southern District of New York, at the United States Courthouse located at 500 Pearl Street, Room 11D, New York, New York 10007, at a time set by the Court, for reconsideration, pursuant to Local Rule 6.3, of those portions of the Court's Memorandum and Order dated August 22, 2011 finding (1) that the safe harbor protections of 17 U.S.C. § 512 apply to sound recordings created prior to February 15, 1972; and (2) that the defendant, MP3tunes LLC, adequately implemented a repeat infringer policy.

Dated: New York, New York  
September 6, 2011

Respectfully submitted,

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